



UNITED STATES MARINE CORPS
OFFICE OF THE STAFF JUDGE ADVOCATE
1ST MARINE DIVISION
BOX 555452
CAMP PENDLETON, CA 92055-5452

IN REPLY REFER TO:

5720

SJA

MAR 03 2020

Ms. Gina Harkins
101 Twisted Stalk Drive
Gaithersburg, Maryland 92101

Dear Ms. Harkins:

SUBJECT : YOUR FREEDOM OF INFORMATION ACT CASE DON-USMC-2020-003972

This is a response to your Freedom of Information Act (FOIA) request for "records concerning the investigation into the May 9, 2019, LAV rollover at Camp Pendleton, California, that killed 1st Lt. Hugh C. McDowel." The First Marine Division FOIA Coordinator received your request on 27 January 2020 and assigned file number DON-USMC-2020-003972.

Pursuant to procedures established in Secretary of the Navy Instruction 5720.42F, we have determined that portions of the responsive records are not subject to release. Accordingly, portions of the records you are receiving (enclosed) have been redacted. For the reasons below, your request is partially denied.

Our review of these documents reveals that they contain personal identifiers of third parties, the release of which would constitute an unwarranted invasion of personal privacy. Accordingly, we must withhold this information pursuant to exemptions (b)(6) and (b)(7)(C) of the FOIA (5 U.S.C. § 552).

Exemption (b)(5) of the FOIA protects the inter-agency memorandums and letters. Therefore, we withheld portions of the responsive investigation due to the deliberative process privilege.

Exemption (b)(2) of the FOIA protects records that are solely related to the internal personnel rules and practices of an agency. These materials are also withheld.

Exemption (b)(7)(F) of the FOIA protect "records . . . [the disclosure of which] could reasonably be expected to endanger the life or physical safety of any individual." Exemption (b)(7)(E) protects "techniques and procedures" of law enforcement. Accordingly, portions of the command investigation have been redacted for servicemembers' safety.

In view of the above, you may consider this to be an adverse determination that may be appealed to the Department of the Navy, Office of the Judge Advocate General, General Litigation Division (Code 14), 1322 Patterson Ave., SE, Suite 3000, Washington Navy Yard, D.C. 20374-5066. Your appeal, if any, must be postmarked within 90 calendar days from the date of this letter and should include a copy of your initial request, a copy of this letter, and a statement indicating why you believe it should be granted. We recommend that your appeal and its envelope both bear the notation "Freedom of Information Act Appeal."

You also have the right to seek assistance and/or dispute resolution services from the Marine Corps FOIA Public Liaison, Ms. Sally Hughes, at hqmcfoia@usmc.mil or (703) 614-4008, and/or the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.a.julka@navy.mil or (703) 697-0031. You may also contact the Office of Government Information Services for assistance and/ or dispute resolution at ogis@nara.gov or 1-877-684-6448. For more information online about services provided by OGIS, please visit their website at <https://ogis.archives.gov>.

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There are no assessable fees associated with the processing of your request. Any questions concerning this matter should be directed to the Office of the Staff Judge Advocate 1st Marine Division, Captain Andrew Fremming, at (760) 725-5980 or via email at 1MARDIV_OSJA@USMC.MIL.

Sincerely,

A handwritten signature in black ink, appearing to read "PDH" followed by a stylized flourish.

P. D. HOUTZ
Lieutenant Colonel, U.S. Marine Corps
By direction of the
Commanding General